

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00776R

Parcel No. 241/00523-067-788

Jeffrey Kramer,
Appellant,

vs.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 22, 2016. Jeffrey Kramer was self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Polk County Board of Review.

Kramer is the owner of a residential, two-story home located at 6625 Peckham Street, Johnston. Built in 2003, it has 2583 square feet of above-grade finish and a full basement with 1070 square-feet of living-quarter quality finish. It also has a three-car attached garage, a deck, a patio, and an open porch. The site is 0.399 acres. (Ex. A).

The property's January 1, 2015, assessment was \$410,300, allocated as \$77,500 in land value and \$332,800 in improvement value. On his protest to the Board of Review, Kramer claimed the assessment was not equitable as compared with assessments of other like property and that his property was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). Kramer also submitted comments in the petition sections reserved for other claims. In the section used for claiming an error in the assessment, Kramer provided sales prices of comparable properties listed in support of his equity claim. Moreover, Kramer asserts a claim that there has been a downward change in value since the last assessment under section 441.37(1)(a)(2). However, in a re-assessment year like 2015, a protest based on change in value is akin to a market value claim contending the property is over-

assessed under section 441.37(1)(a)(1)(b). Therefore, only an equity claim and an over-assessment claim were considered. The Board of Review denied the petition. Kramer then appealed to PAAB reasserting his two claims and stating his belief that the correct value is \$355,000.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Overassessment and Equity Claims

i. Applicable Law

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

A taxpayer may otherwise show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.” *Id.* at 711.

The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The *Maxwell* equity analysis is done by comparing prior year sales (2014) to the current assessment (2015). Moreover, more than one comparable is necessary to prevail in an equity claim. *Montgomery Ward Dev. Corp. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996).

ii. Findings of Fact

Kramer is the original owner of the subject property having purchased it in April 2004 for \$405,700. Kramer believes the market value of his property has decreased because of an oversupply of newer properties, including apartments. He asserts that when he built his home, construction materials and labor were in short supply; whereas today, materials and labor are abundant. As such, the cost to construct new property is lower and reduces the market value of his property. He also explained there is a new elementary school being built near his neighborhood, which he believes will increase the traffic and additionally lower the appeal and value of his property.

Kramer explained he has had some damage to the wood floors in his kitchen and basement ceiling from a water leak. Additionally, items in need of repair or replacement include his floor coverings, interior paint, and the siding. (Ex. 10).

Kramer submitted nine properties he believes support his claims. (Petition; Exs. C & 4-9). The following table summarizes the sales. There was no detailed information for the property located at 6705 Romford Court, which sold for \$391,600; it has been excluded from the table.

Address	2015 Assessed Value	Style	Gross Living Area (GLA)	Finished Basement	Sale Date	Sale Price
Subject	\$410,300	2 Sty	2583	1070 LQ	N/A	N/A
6714 Peckham St	\$354,500	2 Sty	2691	700 AP	N/A	N/A
9205 Enfield Dr	\$335,400	2 Sty	2657	No Finish	Jul-15	\$350,000
6624 Romford Ct	\$320,200	2 Sty	2074	No Finish	N/A	N/A
6706 Peckham St	\$357,900	2 Sty	2399	750 AP	Aug-15	\$352,500
6622 Hampton Ct	\$359,300	2 Sty	2776	No Finish	Nov-15	\$348,000
9220 Enfield Dr	\$444,500	1 Sty	2205	1485 LQ	Jun-15	\$430,000
9309 Enfield Dr	\$516,300	2 Sty	3232	1260 LQ	Feb-16	\$450,000
6701 Peckham St	\$385,500	1 Sty	1792	1400 LQ	Aug-16	\$390,000

The properties range in age from 2002 to 2005; and have grades from 2-05 to 1-10. The subject was built in 2003 and has a grade of 2+05, which is within these ranges.

Kramer noted that 6714 Peckham Street and 9205 Enfield Drive are both larger than his property, yet are assessed for less. He also asserts 6624 Romford Court is also assessed for less than his property. He further asserts this property is a one-and-a-half story, not a two-story as listed in the record, and as such is superior. Kramer testified he wanted to build a one-and-a-half story home instead of his two-story home but the cost to build that style was significantly higher.

Kramer notes that 6706 Peckham Street, 6622 Hampton Court, and 9309 Enfield all sold for less than their assessments. (Exs. 4-5 & 8). Specifically, he notes the 9309 Enfield sold for \$450,000 in February 2016, over \$66,000 less than its assessment. He believes this example demonstrates the assessments are arbitrary.

He points out that 9220 Enfield Drive (Ex 6) sold in 2015 for \$10,000 less than its original purchase price in 2012; and 6705 Romford Court (Ex 7) sold for \$23,000 less than the 2008 purchase price.

Lastly, Kramer explains that the property located next door at 6701 Peckham (Ex 9), sold for \$30,000 less than its 2006 purchase price. Moreover, he notes that when the owners of this property protested to the Board of Review, their 2015 assessment was lowered from \$423,100 to its current assessment of \$385,500, but his similar assessment was not lowered.

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified for the Board of Review. Rasmussen compared the subject's cost sheet (Ex B) to the properties Kramer submitted to the Board of Review. (Ex D). She explained there were differences between the comparable properties and Kramer's property that would result in different assessments.

Rasmussen testified that the Assessor's Office reviewed trends in the market place from 2014 to 2015 and determined there had been an increase in market values during that period.

The Board of Review submitted five properties it considered in its decision to deny Kramer's petition. (Ex F). The following table is a summary of the sales.

Address	2015 Assessed Value	Sale Price	Sale Date	Gross Living Area (GLA)	Basement Finish	SP/SF
Subject	\$410,300	N/A	N/A	2583	1070 LQ	N/A
9205 Enfield Dr	\$335,400	\$350,000	Jul-14	2657	No Finish	\$131.73
9208 Westfield Cr	\$361,900	\$339,900	May-13	2553	445 LQ	\$133.14
6412 Wilcot Ct	\$307,800	\$300,000	Jul-14	2532	No Finish	\$118.48
6723 Hampton Ct	\$352,200	\$351,500	Jul-14	2404	1100 AP	\$146.21
9017 Wickham Dr	\$358,900	\$360,000	Jul-13	2654	No Finish	\$135.64

The sales were adjusted for differences and after adjustment, the range of value was between \$396,400 and \$449,000; the analysis was reconciled to a value of \$421,200.

The three properties with 2014 sale prices (9205 Enfield Drive, 6412 Wilcot Court, and 6723 Hampton Court) have assessment/sales ratios of 95.82, 1.03, and 1.00, respectively; with an average of 99.6 and median of 1.00.

We note that the subject's assessed value per-square-foot is \$158.85, which is significantly higher than the sale prices per-square-foot of the properties relied upon by the Board of Review. Rasmussen provided no explanation for this discrepancy.

iii. Analysis

Regarding his equity claim, Kramer has not attempted to show the assessor is applying an assessment in a non-uniform manner under *Eagle Foods*. Moreover, he has not submitted sufficient evidence to show the property is inequitably assessed under *Maxwell*. The *Maxwell* equity analysis typically requires comparing prior year sales (2014) to the current assessment (2015) and analyzing the ratio between the two. The sales Kramer submitted did not occur in 2014, but rather after the January 1, 2015, assessment date.

Turning to Kramer's claim of over assessment, many of the sales he submitted sold well after the January 1, 2015, assessment date. However, the trend in these sales indicates sale prices lower than the current assessments. Nevertheless, we have insufficient information to broadly assume this would apply to the subject's assessment

as well. Kramer made no adjustments to the sales for points of difference to arrive at an opinion of value for his property. Nor did he submit any other evidence of the property's fair market value, such as an appraisal or cost analysis.

The Board of Review submitted five adjusted sales it considered in establishing the market value of the subject as of January 1, 2015. We decline to rely on this analysis, primarily because all of the sales sold for \$50,300 to \$110,300 *less than* the subject's current assessment. This indicates the properties are not reasonable comparables to begin with or the methodology used to adjust for differences is flawed. Given the significantly lower sale prices of the properties on which the Board of Review relies, we share Kramer's concerns regarding how the valuations were arrived at with such disparity between seemingly similar properties. While we recognize Kramer has some additional features such as a large amount of living-quarter quality basement finish, we do not find it reasonable that the differences in assessed values and sale prices of these properties are so disparate compared to his. We further note that three of the Board of Review's own comparables also sold for less than their current assessments.

Lastly, Kramer was concerned that his property has wear and tear that may not be reflected in his assessed value. To address this issue, we suggest Kramer may request an interior inspection be completed by the Assessor's Office prior to the next reassessment to assure the property's condition rating is correct.

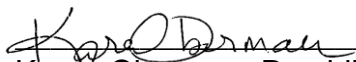
Even though we understand Kramer's confusion regarding the subject property's assessment, we conclude there is insufficient evidence in the record to establish the correct fair market value of the subject, which is required to support his claim that the subject is assessed for more than authorized by law.

Order

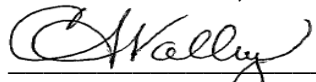
Having concluded that Kramer has not shown his property is inequitably assessed or assessed for more than authorized by law, PAAB ORDERS that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

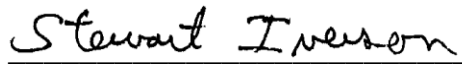
Dated this 14th day of October, 2016.



Karen Oberman, Presiding Officer



Camille Valley, Board Member



Stewart Iverson, Board Chair

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